

Message Text

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ACTION ARA-10

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FM AMEMBASSY BUENOS AIRES

TO SECSTATE WASHDC PRIORITY 7091

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E.O. 11652: N/A

TAGS: CASC:AR: (LOKEN LOPEZ, GWENDA MAE)

SUBJECT: W/W: ARREST REPORT: GWENDA MAE LOKEN LOPEZ

REF: (A) BUENOS AIRES 5973, (B) BUENOS AIRES 5344, (C) STATE 214344

1. REF A REPORTED THE CURRENT STATUS OF THE LEGAL PROCEEDINGS AGAINST MRS. LOPEZ. THE PROCESS IS NOW PROCEEDING NORMALLY, AND THERE ARE NO GROUNDS TO ASSERT THAT THERE IS UNREASONABLE DELAY. IF TRIAL PROCESS COMPLETED WITHIN FOUR TO SIX MONTHS (PARA 1, REF A), THIS WOULD BE WELL WITHIN CUSTOMARY TIME FOR SUCH CASES BEFORE ARGENTINE COURTS.

2. SINCE SOME UNCERTAINTY HAS EXISTED ABOUT WHETHER EXECUTIVE BRANCH DEPORTATION ORDER OR JUDICIAL BRANCH PROCEEDINGS HAVE PRECEDENCE UNDER ARGENTINE LAW, EMBASSY OBTAINED OPINION FROM ARGENTINE LAW FIRM ON THAT POINT. FIRM OF BRONS AND SALAS STATES THAT LEGAL PROCEDURES OF THE JUDICIAL SYSTEM TAKE PRECEDENCE OVER EXPULSION ORDER ISSUED BY EXECUTIVE BRANCH AND THAT ORDER CAN NOT LEGALLY BE EXECUTED UNTIL JUDICIAL PROCESSES ARE COMPLETED. IT IS THE LAW FIRM'S OPINION THAT THE EXPULSION OF OLGA TALAMANTE BEFORE COMPLETION OF THE JUDICIAL PROCESS WAS DONE EXTRALEGALLY BY THE THEN NEW MILITARY GOVERNMENT WITH THE ACQUIESCENCE OF THE COURTS WHICH WERE STILL UNCERTAIN OF THEIR AUTHORITY WITH RESPECT TO THE NEW REGIME. THE ATTORNEY THEREFORE BELIEVES THAT THE TALAMANTE CASE CANNOT BE CITED AS A PRECEDENT IN OBTAINING LOPEZ' EXPULSION BEFORE COMPLETION

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OF THE JUDICIAL PROCESSES.

3. REF B RECOMMENDED EMBASSY AND DEPARTMENT PRESS GOA FOR SPEEDY TRIAL OF LOPEZ. REF C INSTRUCTED THE EMBASSY TO MAKE REPRESENTATIONS WITH THE OBJECT OF OBTAINING LOPEZ' EXPULSION PRIOR TO THE COMPLETION OF THE JUDICIAL PROCESS. AS THINGS NOW STAND, WE BELIEVE THAT THE TIAL PROCESS IS MOVING FORWARD AT AN ACCEPTABLE PACE. IN VIEW OF THE LEGAL ADVICE THAT WE HAVE RECEIVED, WE DO NOT BELIEVE IT IS FEASIBLE OR PRODUCTIVE TO PRESS THE GOA TO EXPEL LOPEZ. EMBASSY HAS, SINCE SENDING REF B, MADE A VARIETY OF INFORMAL APPROACHES TO OFFICIALS IN THE GOA IN AN EFFORT TO HAVE LOKEN EXPELLED OR, FAILING THAT, TO EXPEDITE JIDICIAL PROCESS. THIS PROCESS SEEMS TO BE MOVING NOW, THOUGH IT IS NOT CLEAR THAT THE MEBASSY SHOW OF INTEREST WAS RESPONSIBLE.

4. EMBASSY DOES NOT BELIEVE IT WOULD BE FRUITFUL TO ATTEMPT TO MAKE A FORMAL REPRESENTATION TO GOA IN LOPEZ' CASE. SHE HAS ADMITTED ACTS WHICH ARE GRAVE VIILATIONS OF GOA SECURITY LAWS. SHE DOES HAVE A PUBLIC DEFENDER WHO IS WORKING IN HER BEHALF AND THE EMBASSY HAS REGULARLY HAD ACCESS TO HER SINCE AUGUST 4 (AS DEPT IS AWARE FROM WEEKS CASE, GOA CONTENDS THT IT MAY DENY CONSULAR ACCESS WHEN PRISONER INCOMMUNICADO). CONGEN HAS BEEN IN CORRESPONDENCE WITH JUDGE, URGING APPROPRIATE TREATMENT FOR LOPEZ AND WE EXPECT THAT LOCAL AMERICAN PRIEST WILL BE ABLE TO OBTAIN PERMISSION TO VISIT LOPEZ IN ADDITION TO CONSULAR VISIT.

5. AT THIS POINT EMBASSY DOES NOT BELIEVE ADDITIONAL PRESSURE ON GOA WOULD BE EFFECIVE IN OBTAINING LOKEN'S EXPLUSION. EMBASS IS NOT DISPOSED TO MAKE ARGUMENT WITH GOA THAT LOKEN CASE MAY ATTRACT US CONGRESSIONAL AND PUBLIC INTEREST SINCE THIS WOULD ELICIT RESPONSE THAT LOKEN IS AN ADMITTED AIDE TO TERRORIST GROUPS. AT THIS POINT THE BEST WE CAN COUNSEL IS PATIENCE, AND WE CAN GIVE ASSURANCES THAT EMBASSY WILL FOLLOW HER CASE CLOSELY TO ASSURE PROMPT AND EQUAL LEGAL TREATMENT.

6. CONSUL VISITING LOPEZ SEPT 15 AND WILL REPORT CURRENT STATUS UPON RETURN TO BUENOS AIRES.
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